

REMARKS

I. Summary of the Office Action

The Office Action mailed October 15, 2008 (“the Office Action”) made the following objections and/or rejections, each of which is addressed in more detail below:

Claims 1, 3-6, 11-16, and 31-40 were rejected under 35 U.S.C. 101 as being directed to non-statutory subject matter.

Claims 1, 3-6, 11-16, and 31-40 were rejected under 35 U.S.C. 112, second paragraph, as being indefinite.

Claims 1, 3-6, 11, 14-15, and 31-40 were rejected under 35 U.S.C. 103(a) as being unpatentable over U.S. Patent No. 5,339,392 (“Risberg”) in view of U.S. Patent No. 7,068,288 (“Good”).

Claims 12-13 and 16 were rejected under 35 U.S.C. 103(a) as being unpatentable over Risberg in view of Good further in view of Official Notice.

II. Interview Summary

The Applicant thanks the Examiner for the telephonic interview on December 17, 2008 (“the Interview”) with the Applicant’s representative Adam Faier. The Applicant appreciates the Examiner’s time in discussing the present application, pending claims, current rejections, and the cited art. Based on the discussions in the Interview, the Applicant is submitting the present Response and RCE in order to advance prosecution.

With respect to the Interview Summary mailed December 19, 2008 (“the Interview Summary”), the Applicant wishes to clarify his understanding for the record. In particular, the Applicant understood that the Examiner withdrew all of the rejections under 35 U.S.C. 112, except as discussed in more detail below. The Interview Summary appears to indicate that the Examiner still believes the term “defining” may be indefinite, but that this can be fixed later. As such, the Applicant understands the rejections related to this term stand withdrawn but that they may be re-raised in a subsequent Office Action. The Applicant respectfully submits that the term “defining,” as used in the pending claims and when read in light of the specification by one of ordinary skill in the art, is not indefinite. However, if the Examiner, after further consideration,

decides to reject this term again under 35 U.S.C. 112, the Applicant respectfully requests the Examiner provide suggested amendments to overcome the rejection.

III. Related Applications

The Applicant understands that the Examiner reviews the claims and prosecution history of related applications as they contain common subject matter. To this end, the Applicant reminds the Examiner that the present application is related through a common claim of priority to U.S. Patent Application Serial No. 11/415,395.

In addition, for the purposes of the present application, the Applicant hereby rescinds any disclaimer of claim scope that may have been (or may be) made during the prosecution of any related application. The Applicant respectfully requests examination of the instant claims according to the claim language in light of the prior art without importing statements made by the Applicant in the prosecution of any related application.

IV. Status of the Claims

The present application includes claims 1, 3-6, 11-16, and 31-40. By this Response, claims 1, 5-6, and 40 have been amended. Support for these amendments can be found throughout the application and therefore no new matter is added in this response.

V. Claim Rejections – 35 U.S.C. 101

The Applicant now turns to the rejection of claims 1, 3-6, 11-16, and 31-40 under 35 U.S.C. 101 as being directed to non-statutory subject matter. More particularly, the Office Action stated at page 8 that “in order for a method claim to qualify as a patent eligible process under 35 USC § 101, the process of the method claim must (1) be tied to another statutory class ... or (2) transform underlying subject matter ... to a different state or thing.”

The Applicant respectfully disagrees that the claims as written are directed to non-statutory subject matter. However, in the interest of expediting prosecution, the Applicant has amended independent claim 1 (from which claims 3-6, 11-16, and 31-39 depend) to more clearly recite that they are tied to another statutory class. In addition, the Applicant respectfully submits that these claims transform underlying subject matter.

With respect to independent claim 40, the Applicant respectfully submits that this rejection is not applicable as claim 40 is directed towards a “computer readable medium” not a method or process. However, again in the interest of expediting prosecution, the Applicant has made similar amendments to claim 40 as those made in independent claim 1.

In view of the above, the Applicant respectfully requests reconsideration and withdrawal of this rejection.

VI. Claim Rejections – 35 U.S.C. 112

The Applicant next turns to the rejection of claims 1, 3-6, 11-16, and 31-40 under 35 U.S.C. 112, second paragraph, as being indefinite. More particularly, the Office Action identified at pages 9-10 a number of terms as being indefinite. After discussing these various terms in the Interview, the Examiner indicated that all of these rejections were withdrawn except for the following:

- In claims 1 and 40, “a more desirable arrangement of the plurality of windows” was indefinite because it is relative
- In claim 5, “window characteristics” lacks antecedent basis
- In claim 6, “expiration” lacks antecedent basis

The Applicant has amended claims 1, 5, 6, and 40 to address these issues. Consequently, the Applicant respectfully requests that this rejection be reconsidered and withdrawn.

VII. Claim Rejections – 35 U.S.C. 103

The Applicant now turns to the rejection of claims 1, 3-6, 11, 14-15, and 31-40 under 35 U.S.C. 103(a) as being unpatentable over Risberg in view of Good. The Applicant respectfully submits that neither Risberg nor Good, alone or in combination, teaches or suggests the entirety of the features recited in the pending claims.

Both Risberg and Good have been discussed in previous Responses in this case and, for brevity, that discussion will not be repeated here.

During the Interview, the Applicant and Examiner discussed distinctions between the proposed combination of Risberg and Good and the pending claims. The Applicant explained that a distinction between the pending claims and the features contributed by Good to the

proposed combination was that the pending claims recite a workspace that has at least **two states**, where **each state is associated with a particular layout** of a particular plurality of windows. That is, as has been previously discussed, the workspace has first state with first arrangement of windows and a second state with a second (and different) arrangement of the same set of windows. When the trigger is detected, the workspace is activated to go from the first state to the second state. Consequently, **the layout of the windows changes from the arrangement defined for the first state to the arrangement defined for the second state**.

In contrast, Good provides for objects to make room for/move out of the way of a particular object that a user may be making larger or dragging across a display area, for example. Thus, while Good may be read to disclose that the same objects in the display area are rearranged to a new layout when one of the objects changes size or is moved, the Applicant respectfully submits that this new layout is **dynamically/interactively determined**; it is not a second state of the workspace. The Applicant respectfully submits that the two states recited in the pending claims are (1) **defined ahead of time** (that is, not dynamically/interactively determined) and (2) the change of state from one to the other is **based on a trigger that is detected by analyzing the incoming data feeds** related to the tradeable objects (not a user-driven input action such as resizing/dragging an object in the display area). The Examiner tentatively agreed with this reasoning and stated that he would reconsider Good and perform another search if, after reconsidering Good, he agreed it did not disclose at least these features.

Independent claim 1 recites, among others, the following features:

- defining at a computing device a plurality of windows to be associated with a workspace ..., and wherein each of **the plurality of windows is displayed according to a first state in the workspace**, the **first state comprising a particular arrangement** of the plurality of windows in the workspace
- **detecting** at the computing device **the trigger** associated with the workspace **by analyzing one or more incoming data feeds** having a relation to the one or more tradeable objects
- upon detecting the trigger, **changing** a state of the plurality of windows being displayed **according to the second state in the workspace, the second state comprising a different arrangement of the plurality of windows** in the workspace than the first state

Independent claim 40 recites similar features. As discussed above, the proposed combination of Risberg and Good does not teach or suggest the entirety of the features recited in the pending claims. Therefore, the Applicant respectfully submits that independent claims 1 and 40 should be allowable over the cited art of record for at least the reasons discussed above.

With respect to claims 3-6, 11, 14-15, and 31-39, these claims depend from independent claim 1. The Applicant respectfully submits that at least because claim 1 should be allowed for the reasons discussed above, claims 3-6, 11, 14-15, and 31-39 should also be allowed.

The Applicant now turns to the rejection of claims 12-13 and 16 under 35 U.S.C. 103(a) as being unpatentable over Risberg in view of Good further in view of Official Notice.

With respect to the Official Notice, as discussed in the Interview, the Applicant respectfully submits that the Examiner has not actually taken Official Notice, but instead is relying on the cited Stark and Lapidous references as teaching the features recited in these claims.

Consequently, the Applicant notes that claims 12-13 and 16 depend from independent claim 1. The Applicant respectfully submits that because claim 1 should be allowed for at least the reasons discussed above, claims 12-13 and 16 should also be allowed.

VIII. Conclusion

In general, the Office Action makes various statements regarding the pending claims and the cited art that are now moot in light of the above. Thus, the Applicant will not address such statements at the present time. However, the Applicant expressly reserves the right to challenge such statements in the future should the need arise (for example, if such statements should become relevant by appearing in a rejection of any current or future claim).

All the stated grounds of objection and rejection have been respectfully traversed, accommodated, or rendered moot. The Applicant therefore submits that the present application is in condition for allowance. If the Examiner believes that further dialog would expedite consideration of the application, the Examiner is invited to contact Trading Technologies in-house Patent Counsel Adam Faier at 312-698-6003, or the undersigned attorney or agent.

Respectfully submitted,

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